

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ROGER LEE HARRIS,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-09528

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiff Roger Lee Harris’s (“Claimant”) Complaint seeking review of the decision of then Acting Commissioner of Social Security, Carolyn W. Colvin (“Commissioner”).¹ (ECF No. 2.) By Standing Order filed in this case on October 13, 2016, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on June 12, 2017, recommending that this Court reverse the final decision of the Commissioner, remand this matter for an award of benefits pursuant to sentence four of 42 U.S.C. § 405(g), and dismiss this action from the Court’s docket. (ECF No. 23.)

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file

¹ Nancy A. Berryhill became the Acting Commissioner of Social Security on January 23, 2017, replacing the former Social Security Commissioner, Carolyn W. Colvin, the original Defendant in this case. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Ms. Berryhill is automatically substituted as the Defendant.

timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due on June 29, 2017. To date, no objections have been filed.

Accordingly, the Court **GRANTS** Claimant's request for judgment on the pleadings, (ECF No. 15), **DENIES** Defendant's request to remand the matter back to the Commissioner, (ECF No. 16), **REVERSES** the final decision of the Commissioner, **REMANDS** this matter pursuant to sentence four of 42 U.S.C. § 405(g) for an award of benefits, and **DISMISSES** this action from the Court's docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: October 5, 2017



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE